SINGLE BENCH (5)

-CFRS/07

1

IN THE HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

WRIT PETITION (CRI.) NO. 110/ OF 2007

PETITIONER : Suresh Kumar Sharma, S/o Late Shri Mamraj Sharma, Aged about 42 years, R/o Main Road, Katghora, District Korba (CG).

Versus

RESPONDENTS :

1. State of Chhattisgarh, Through the Secretary, Department of Home, D.K.S. Bhawan, Mantralaya, Raipur (CG).
2. Director General of Police, Police Headquarters, Raipur (CG).
3. Superintendent of Police, Korba (CG).
4. Station House Officer, Police Station Katghora, District Korba (CG).
5. Shankar Lal Rajak, S/o Budhdev, R/o Hunkra, Gram Panchayat Jenjra, Block/ Tehsil/ Police Station Katghora, District Korba (CG).

P.S. 1379/07 Korba 15-02-2007

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WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

(26)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 1101 of 2007

Petitioner Suresh Kumar Sharma

Versus

Respondent State of Chhattisgarh & others

SB: Hon'ble Mr. Justice **Satish K. Agnihotri, J**

Shri Vishnu Kostha, Advocate for the petitioner.

Shri A. S. Kachwaha, Govt. Advocate for the respondents No. 1 to 4.

O R D E R

(Passed on this 26th day of February, 2007)

The following order of the Court was passed by **Satish K. Agnihotri, J.**

1. The petitioner has filed this petition seeking a direction to the respondent No.4 Station House Officer, Police Station – Katghora, District - Korba to register a case against the respondent No.5 (Shankar Lal Rajak) on the written report dated 9.1.2007 submitted by the petitioner.

2. The brief facts, leading to filing of this petition is that the petitioner, describes himself as 'a respectable citizen of Katghora Tahsil and actively working in the interest of public and as a social worker', styling himself as Former President of the Block Congress Committee, Katghora, District- Korba along with one Ashraf Memon, made a written complaint to the Station Officer, Police Station - Katghora, District – Korba on 9.1.2007 (Annexure P/4) against Panch and Up-Sarpanch, Shankarlal of Village Panchayat Jenjra for fraudulently selling of government lands, bearing Patwari Halka No. 24, Khasra No. 412/3, area 0.28 dismil, situated at Village- Hunkara.

(27)

3. Learned counsel for the petitioner submits that the respondent No.4, being a police officer is duty bound to register a case on receiving information of cognizable offence, without going into the reliability of the information before registration of a criminal case. Since the respondent No. 4 has failed to discharge his official duty, a direction be issued to him to register a criminal case against the respondent No.5.

4. In support of his submissions, learned counsel for the petitioner citcd a dccision of Hon'blc Supremc Court in thc casc of **Lallan Chaudhary and others Vs. State of Bihar and another** { 2006 AIR SCW 5172}. In that case, a complaint case was filed by the complainant Yogendra Prasad in the Court of Sub Divisional Juddicial Magistrate, Sikrahana against the accused persons for the offences under Sections 147, 148, 149, 448, 452, 323 and 395 of the I.P.C. After registering that complaint as Complaint Case No. 223 C/1996 learned Judicial Magistrate sent the complaint to the SHO Police Station Ghorasahan to register an FIR and to investigate. After registering the case under sections 452, 380, 323/34 of the I.P.C. against the accused, the charge sheet was submitted only for the offences under Section 452/323/34 of the I.P.C.. Since the offence was not registered by the concerned SHO for the offences under sections 147, 148, 149, 448 and 395 of the I.P.C., the Hon'ble Supreme Court in para 6 of the judgment has observed that 'no investigation was carried out by the Police in respect of the aforesaid sections of law and committed grave miscarriage of justice'. In the above facts the Hon'ble Supreme Court in para 8 of the decision held as under:-

> "Section 154 of the Code thus casts a statutory duty upon police office to register the case, as disclosed in the

(28)

complaint, and then to proceed with the investigation. The mandate of Section 154 is manifestly clear that if any information disclosing a cognizable offence is laid before an officer in charge of a police station, such police office has no other option except to register the case on the basis of such information.

5. The facts of the present case are entirely different. The matter appears to be of civil nature, where ownership of land is in dispute. From the documents appended to the petition, it appears that the revenue authorities of the State Government have already taken up the matter and after enquiry by the Tahsildar, Katghora in Revenue Case No. B/121/2005 a report has been sent to the Sub Divisional Officer, Katghora on 18.4.2006 (Annexure P/1).

6. In view of the foregoing, when the Revenue Authorities, who are responsible for taking care of the Government lands have already taken up the matter into consideration and have enquired into the matter, no doubt they would certainly take the action in accordance with law, this Court does not find any merit in this petition which warrant interference, invoking the extra ordinary jurisdiction under Article 226 of the Constitution of India.

7. As a result, the petition is dismissed, summarily. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Thakur